

ENERGY/RHG

Decision 01-09-047 September 20, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application of MOUNTAIN |) | |
| UTILITIES U-906-E. for Authority to Issue |) | Application 01-01-019 |
| Evidence of Indebtedness and to Grant Security |) | (Petition for Modification |
| Interest in Assets as Security Therefor. |) | filed August 13, 2001) |
| _____ |) | |

**OPINION MODIFYING AUTHORIZATION TO ISSUE EVIDENCE OF
INDEBTEDNESS**

Summary of Decision; Procedural History

This decision grants Mountain Utilities (MU) the authority requested in its petition for modification of Decision (D.) 01-04-031 (Petition).

Pursuant to Rule 47 of the Commission's Rules of Practice and Procedure, MU seeks authorization to change the credit provider and increase the amount of the loan granted in D.01-04-031 from \$3,500,000 to \$4,000,000 million. Notice of the filing appeared on the Commission's Daily Calendar of August 17, 2001. No protests have been received.

Background

MU is a wholly owned subsidiary of Kirkwood Associates, Inc. dba Kirkwood Resort Company and is engaged in the provision of electrical services for customers located within portions of the counties of El Dorado, Amador, and Alpine in the State of California. MU's service territory is comprised of the Kirkwood Valley, which is approximately 2.5 miles by .75 miles and is located in some of the roughest terrain in the Sierra Nevada Mountains, at elevations of 8,000 feet. Kirkwood Valley with elevations exceeding 9,500 feet is 26 miles from the nearest transmission grid facilities of any other utility. Having no access to the power grid, MU serves its customers exclusively utilizing the generation capacity of utility grade diesel generators with facilities located in the Kirkwood Valley. MU currently owns

six diesel-powered generators with a combined normal operating capacity of 4,200 kilowatts. Electricity is delivered to MU's retail customer through a 12,470 kV distribution network.

As described in D.01-04-031, MU is a small utility serving fewer than 500 customers with a coincident peak load of 2.2 megawatts and an additional interruptible load of approximately 1.1 megawatts. The largest portion of the load serves Kirkwood Mountain Resort, LLC, the owner and operator of the ski resort facilities. MU estimates that it serves approximately 175 full-time residents and the remaining residential load is represented by seasonal homes and condos that are typically used as vacation and investment rental properties.

In addition to its electricity operations, MU has a propane bulk plant and distribution system that is unregulated, except for safety purposes.

D.01-04-031 dated April 19, 2001, in Application (A.) 01-01-019 granted MU to secure a loan in the amount of \$3,500,000 from either General Electric Capital Corporation¹ (GECC) or CIT Equipment Financing² (CIT). The proceeds from the loan are intended for plant expansion and working capital.

Pursuant to Public Utilities (PU) Code § 1904(b), the fee associated with the authority granted in D.01-04-031 is \$4,500.

Modification Sought

The Petition states that approximately the time the Commission issued D.01-04-031, both GECC and CIT declined MU's loan application. As a result, MU deferred paying the \$4,500 fee associated with D.01-04-031 and started looking for other credit providers. MU now proposes to secure a \$4,000,000 loan from Heller Financial Leasing, Inc. (Heller).

Under the Heller loan proposal, MU would borrow a principal amount of \$4,000,000 at a floating interest rate of 8.07%. The loan will be repaid over seven years, during the months of December through April with a balloon payment at the end of the loan term. The loan will be secured by all equipment and assets owned by MU.

The \$4,000,000 million loan will be used for system safety and operations improvement. The project consists of: 1) building a powerhouse to add generation, switching

¹ Fixed interest rate of 10%, 7-year period.

² Variable interest rate of prime plus 2%, 7-year period, with a single balloon payment due at the end of the loan repayment period.

capacity, and support equipment; 2) procure new transformers; 3) replace distribution system switchgear; and 4) upgrade metering system. The additional \$500,000 is a provision for the repayment of short-term debt.

PU Code § 823(b) states that a public utility may issue notes, for proper purposes and not in violation of any provision of law, payable at periods of not more than 12 months after the date of issuance of the notes without the consent of the Commission.

PU Code § 823(d) requires Commission approval for the refunding of short-term debt by issue of stocks, other evidence of interest or ownership, or of bonds, notes of any term or character, or any other evidence of indebtedness.

MU believes that the final terms of the loan will not differ materially from that described in the Petition and in all material respects, except for the new loan amount and creditor, the financing authority granted in D. 01-04-031 remains unchanged.

MU's request raises no questions that should dissuade us from giving favorable consideration to the authority requested. We will likewise allow MU to refund previously issued short-term debt securities with the authority granted in this order.

Pursuant to PU Code Section 1904(b), the fee associated with the requested amount of \$4,000,000 is \$5,000³.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU Code 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

We approve MU's Petition in this order.

Findings of Fact

1. MU, a California corporation, is a public utility subject to the jurisdiction of this Commission.
2. MU needs external funds for the purposes set forth in the Petition.
3. MU deferred paying the \$4,500 fee associated with D.01-04-031 because of the termination of the GECC or CIT financing arrangement.

³ The fee is determined as follows: $(\$2 \times (1,000,000/1,000)) + (\$1 \times (3,000,000/1,000)) = \$5,000$.

4. Notice of the filing of the Petition appeared on the Commission's Daily Calendar of August 17, 2001. There is no opposition to the Petition and there is no reason to delay granting the modification described therein.

Conclusions of Law

1. A public hearing is not necessary.
2. PU Code 823(d) provides that no note payable at a period of more than 12 months after the date of issuance of such note shall be refunded, in whole or in part, by any issue of stocks or stock certificates or other evidence of interest or ownership, or of bonds, notes of any term or character, or any other evidence of indebtedness, without the consent of the Commission.
3. The Petition should be granted to the extent set forth in the order that follows.
4. MU shall pay the fee in accordance with PU Code 1904(b).
5. The following order should be effective on the date of signature.

S U P P L E M E N T A L O R D E R

IT IS ORDERED that:

1. The amount of financing authority granted to Mountain Utilities (MU) by Decision (D.) 01-04-031 in Application (A.) 01-01-019 is hereby modified from \$3,500,000 to \$4,000,000.
2. MU may enter into a loan transaction with Heller Financial Leasing, Inc. (Heller) upon terms and conditions substantially consistent with those set forth or contemplated in the Petition to Modify D.01-04-031.
3. MU may refinance \$500,000 short-term debt securities with the proceeds of the authority granted by this order.
4. Pursuant to Public Utilities Code 1904(b), MU shall remit the statutorily mandated fee of \$5,000 to the Commission's Fiscal Office within a reasonable time, not to exceed two months from the effective date of this decision. Failure by MU to remit the fee shall render void the authority granted herein.

5. MU's Petition to Modify D.01-04-031 is granted to the extent set forth in the prior Ordering Paragraphs.

6. In all other respects, D.01-04-031 remains in full force and effect.

7. The 30-day period for public review and comment is waived.

8. A.01-01-019 is closed.

This supplemental order is effective today.

Dated September 20, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners